

EXHIBIT 13

Deposition of Harri Kytomaa

In the Matter Of:

HILDA BATES v. TIPPMANN SPORTS, LLC., et al.

VIDEOTAPED DEPOSITION OF
HARRI KYTOMAA

June 19, 2018



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1 Q. With respect to the 12-ounce bottle, am I
2 correct in understanding that your opinion is
3 that it was last filled by either Mr. Bates or
4 Dick's Sporting Goods on January 6, correct?

5 A. That's right.

6 Q. Do you think that it is likely if Dick Sporting
7 Goods filled those bottles, the 9-ounce can and
8 the 12-ounce can on January 6 that they would
9 both burst or rupture within 24 hours of each
10 other or four weeks later, or is it more likely
11 that Mr. Bates filled them the night before and
12 they burst within 24 hours of him filling them?

13 A. I don't know.

14 Q. Why don't you know?

15 A. I think there's too many variables to be able
16 to answer that question.

17 Q. Have you undertaken to try to find that answer
18 out?

19 A. I have not.

20 Q. Regardless of who last filled it, do you agree
21 or is it your opinion, to a reasonable degree of
22 engineering certainty, that whoever filled it
23 last overfilled it?

24 A. When you say "it" what do you mean?

25 Q. The 9-ounce canister.



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1 I have not tried to make that determination,
2 but I would say that certainly easy to overfill
3 by accident and while trying to do what the
4 filler thinks is the right thing.

5 Q. Have you reached an opinion as to whether if
6 Mr. Bates is the one that overfilled the
7 canister if he did it intentionally?

8 A. You're asking me hypothetical. I've already
9 given you my opinions, and I have not tried to
10 answer that question before. I guess I don't
11 have an opinion on that.

12 Q. Is it your opinion, to a reasonable degree of
13 engineering certainty, that the overfilled
14 9-ounce canister was a approximate cause of
15 the rupture of the canister itself?

16 MS. HOUCK: Objection to the extent
17 it calls for a legal conclusion.

18 A. The cause of the failure of the canister is
19 the defective PRD. Had the PRD had not been
20 defective, this would have never happened.

21 In addition -- so essentially what happened
22 here is that there was a combination of both
23 overfilled as well as defective PRD, and that
24 caused the event.

25 If the canister had been overfilled as it



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1 was with a properly working PRD, this would have
2 never happened. And conversely, if the canister
3 had not been overfilled and the PRD was as it
4 was defective, this also would not have happened.
5 So it required both to be in place.

6 Q. Let me make sure I understand your answer.

7 Assuming the PRD is, in your opinion,
8 defective, if whomever filled the 9-ounce tank
9 had not overfilled it, you agree there would not
10 have been a ruptured event; is that correct?

11 A. Yes.

12 Q. I assume it's your opinion that the rupture
13 event is what caused Mr. Bates' death?

14 A. The rupture of the canister, yes. Let me be
15 clear on that.

16 That's what the record indicates. I've not
17 tried to independently determine either anything
18 associated with the medical record or anything
19 that would suggest in dispute the fact that the
20 canister ruptured. Those are the facts in the
21 case. I accept those as they are.

22 Q. As you sit here today, it's fair to say that if
23 this 9-ounce canister had not been overfilled,
24 Mr. Bates would not have died in the manner he
25 did; is that correct?



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